

Approved: Meeting No. 36-83

ATTEST:

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
MEETING NO. 33-83

September 26, 1983

The Mayor and Council of Rockville, Maryland, convened in general session in the Council Chamber, Rockville City Hall, Maryland at Vinson Street, Rockville, Maryland on Monday, September 26, 1983, at 8:00 p.m.

PRESENT

Mayor Pro Tem Steve Abrams

Councilman Douglas Duncan

Councilwoman Viola Hovsepian

Councilman John Tyner, II

ABSENT

Mayor John R. Freeland
(on travel leave)

The Mayor pro tem in the Chair.

In attendance: City Manager Larry Blick, City Attorney Paul Glasgow; Secretary to City Clerk Patricia Rager.

Re: City Manager's Report

Mr. Blick reported the following:

1. On September 19, two visitors from Pinneberg, Germany, stopped by City Hall. They were Mr. Stroink, a Councilmember in Pinneberg, and Mr. Loose, a resident of Pinneberg.

2. Councilman Tyner has volunteered to represent the Mayor and Council on the task force to determine the role and duties of a tenant mediator position for the Rockville Housing Authority. The Assistant City Manager will convene a meeting of the Rockville Housing Authority and City staff and Councilman Tyner to begin work on this matter.

3. A report has been furnished to the Mayor and Council on the Carter PRU and the process that was followed in making adjustments between the proposed and the final PRU. Discussions have been held between the Planning Director and the Homeowners Association on how to more effectively communicate and involve them on issues affecting Rockshire.

4. This year's smoothseal project is 35% complete and is progressing satisfactorily.

5. The 24-hour recording machine for after hours calls will be operating next

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Saturday.

Mayor pro tem Abrams asked if anyone is looking into a solution of better communication between the City and other homeowner associations. Mr. Blick suggested forming a committee to look at the issues. He will look into it and have the process outlined.

Re: Proclamation;
Theatre Month

Proclamation No. 10-83

There being no objection from the Council, Mayor pro tem Abrams proceeded to issue Proclamation No. 10-83, proclaiming the month of October, 1983, as Theatre Month in the City of Rockville. Councilman Tyner read the proclamation at the request of the Mayor pro tem, in which it was urged that citizens participate in and support the efforts of the theatre by attending one or more of the productions at the F. Scott Fitzgerald Theatre.

Re: Appointments

Mayor pro tem Abrams, with the confirmation of the Council, made the following appointments:

Human Rights Commission: Yetlie Kern - effective October 1 - (4 year term)
717 Maple Avenue

William Pogerman - effective October 1 - (4 year term)
185 Hardy Place

Alternative Community Service Commission: Sally Roy - (2 year term)
222 Pender Place

Re: Citizen's Forum

The Mayor pro tem opened the meeting to those citizens who wished to address the Mayor and Council.

1. Eugene Casey, 6300 Hanover Lane, Rockville, Maryland. Mr. Casey spoke to the Mayor and Council regarding tonight's agenda Item No. 7. He thanked the Mayor and Council for the opportunity to talk to the staff. He had a good discussion but nothing changed because staff is going by Mayor and Council requirements. He said he does not see how a small parcel of property can amount to so much.

Mr. Casey next addressed the proposed Landlord/Tenant Ordinance and said he hopes the Mayor and Council sees fit not to impose it. He feels it is an unfit policy on landlords and tenants. He feels it is better to let things alone.

Councilman Tyner said he is aware of the situation on assesement of land and thinks the staff is correct in following the Mayor and Council's policy. He explained that the Council occasionally looks at the policy and discusses it. At some time they will address the assessment policy. He added that Mr. Casey's concern

will be reviewed.

2. Dorothy Waldern of Lincoln Park. Mrs. Waldern brought to the Council's attention a severe problem that exists in her neighborhood. She explained that she and her neighbors are harassed by a group of people who make noise at all hours of the night and day, destroy property, deal drugs, etc.

Mayor pro tem Abrams asked that Chief Stout get a report back to the Mayor and Council on this problem. Councilman Duncan asked if this had been before the Mayor and Council before. Mr. Blick said it had and explained that the drug problem is being addressed by both the County and City. He said there are extra patrols, just short of full time patrols, out there but it is hard to control. He said if the Council would want a full time patrol in the neighborhood, the staff could show costs of hiring a full time police officer. Councilwoman Hovsepian said it might be worth looking into even if it is only done for a period of time. Councilman Duncan asked for a list of possible alternatives.

2. Mrs. Thomas, 211 Frederick Avenue. Mrs. Thomas told the Council that she and her small children are stuck in the house all day due to the drug problem that occurs outside her house. She added that the situation has gotten much worse. Councilman Tyner asked if these people are neighborhood people. She said that none of the people are from the neighborhood. Mayor pro tem Abrams commented that the Neighborhood Watch Program is not viable and it would be worth the increase in police presence. Councilman Tyner suggested additional budget funding for another police officer. He would patrol a certain number of hours a day for a certain number of weeks, or assign a police officer to patrol the neighborhood though it would keep him away from his other duties. Mrs. Thomas asked that a plain clothes policeman be put in the neighborhood. Mrs. Waldern explained that activity stops when a police officer arrives.

3. Mr. Nelson Cooper, 214 Frederick Avenue. Mr. Cooper said he is all alone in his house and finds it disgraceful that he cannot sit on his porch or sleep at night because of the noise. He has lived in the area for 50 years and this is the worst year yet. He said he hopes something will be done. Mayor pro tem Abrams asked that the Council hear back promptly on the inventory and work with other jurisdictions in solving this problem.

4. Delegate Jennie Forehand. Mrs. Forehand said she has a problem with the political sign section in the proposed sign ordinance. She explained that real estate signs are on the road's edge and asked that instead of a 15 foot set back requirement for political signs that it be changed to 10 feet. She also added

that one subject not addressed in the proposed ordinance was unattractive signs. She explained that the State, County and even City have erected such signs. She asked that there be more leverage in what governments put up. Her third matter is the beverage container law. She is glad to see it on the agenda and feels it is environmentally sound.

5. Gean Eder, One Alsace Lane. Mrs. Eder said she is speaking for herself and her neighbors, the Montgomerys and Barnetts. She informed the Mayor and Council that a sewer line blocked up last week in her house and her neighbors. She explained that rats are appearing where mice used to run. She commended the men who worked all night and the next day to clean up the damage. She explained that the men had to do clean up without the help of a wet vac. She urged the Mayor and Council to look into purchasing more since the only one the City owns is being repaired.

Mrs. Eder also addressed the Mayor and Council concerning the burning of a house on Halpine Drive. She said the neighborhood was not informed about this and that she has heard that a school will be going up on this property. She told the Mayor and Council that her neighborhood would oppose this.

6. Mr. William Gregory, 13431 Doncaster Lane, Silver Spring, Maryland. Mr. Gregory addressed the Mayor and Council concerning the resolution that is up for adoption tonight on the beverage container law. He told of problems other states and cities are experiencing with their beverage container laws. He explained as a manufacturer of soft drinks and from a retailer's point of view it would be best for the Mayor and Council not to pass the bill. It is a situation in which Montgomery County will be ill served because there are no trucks available to handle the returned bottles. He explained that Montgomery County will need to spend \$2 million to handle the work load. He mentioned how his company is working with other alternatives such as the "BURP" recycling program and the use of reverse vending machines. These programs have a long way to go but they work the best on a voluntary basis. He hopes the Council votes against the Resolution. Councilwoman Hovsepien explained that she and her husband are very active in the recycling program but are disappointed everytime they go to the center because there always seems to be another item removed from the list. She is all for recycling and the program was great when it started but it seems to have "petered" out. Mr. Gregory said he hears Councilwoman Hovsepien's remarks and they are appreciated. Councilwoman Hovsepien added that she hates to see scrap aluminum go to waste. Mr. Gregory assured her that aluminum will take off again.

7. Mr. Robert Weirich, Peerless Rockville. Mr. Weirich presented to the Mayor

and Council, as is done this time each year, the annual Peerless Calendar.

Councilman Duncan asked Mr. Weirich about the status of the farmhouse renovation. Mr. Weirich said the work is coming along nicely. They have begun on the exterior of the house and all the hardware, such as plumbing, electrical wiring, etc., is in place. It should be done in another month or so.

There being no other person wishing to be heard, the Mayor closed the citizen's forum portion of the meeting.

Re: Approval of proposed
City testimony for
Board of Education
Public Hearing on: a)
Quality integrated
Education Policy & b)
15-Year Master Plan
Policy

This testimony is recommended to be given as the official City position at the public hearing held by the Board of Education on the Board's Quality Education/Racial Balance Policy and on the Board's Long-Range Education Facilities Planning Policy.

Elaine Goldberg, Chairman of the Advisory Commission on Public Education, addressed the Mayor and Council to explain the testimony. Councilwoman Hovsepian said she has no problems with it. Councilman Duncan asked if the Planning Commission has any comment about the minimum level of students for each school. Mrs. Goldberg said that is already in the policy and is one of the criteria to be used. She is not sure of the number but thinks it may be too low. She feels the City is not in a position to comment. Councilman Duncan asked if she will be giving testimony on other items. She said just on the policy statement. The School Board is just working on their CIP and she may be testifying later. Councilman Tyner commented on alternative uses of school sites. Mrs. Goldberg thought it was included in the draft. Councilman Tyner discussed the use of schools by other than government agencies and feels this point should be stressed.

Mayor pro tem Abrams suggested that the Commission should look at the location of the down County swimming pool during the CIP review. He has heard that the site now being reviewed is Walter Johnson High School.

It was the consensus of the Council that the testimony be approved as written.

Re: Grant of permission
to Montgomery County
Historical Society to
construct a library/
archives building on
Beall/Dawson house
property.

In order to identify all issues associated with the construction of a 3,000 square foot library/museum facility on the Beall/Dawson property, the Community

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Development and Housing Assistance Department has examined the City's agreement with the Historical Society and the circumstances under which the property was purchased.

At the present time, the Historical Society leases the property from the City for a nominal rent of one dollar and the Historical Society has the right to occupy the property until June 30, 1999. The lease also states that the Historical Society should "use and occupy the property as headquarters for a historical museum and related historical activities." The stated purpose of the lease is the "continued use, maintenance, and preservation of the historical and architectural value of the property". The lease also provides for the City to maintain the grounds and the exterior of the improvements. The Society pays operating expenses and maintains the interior of the improvements.

The funds for the purchase of the Beall Dawson property came from three sources: \$23,021 from City funds, \$23,125 from the Montgomery County Historical Society, and \$46,254 from Federal Open Space funds. Inasmuch as Federal Open Space funds were utilized in the purchase of the property, it may be necessary prior to making any firm commitments to the Historical Society, to have the U.S. Department of Housing and Urban Development make a determination that the development of a museum-library facility on the property is in accord with the intent of the Open Space legislation. Should it be the decision of the Mayor and Council to allow the Historical Society to proceed with its plans, an appropriate inquiry will be sent to the Washington Area office. In addition, staff will endeavor to negotiate an addendum to the existing lease or a new lease with the Historical Society which will cover such items as design review, building site location, maintenance, zoning and ordinance requirements for the new construction.

Mr. Blick explained that the Mayor and Council would be permitting the construction of a building on Dr. Stone's old office of which the City maintains the exterior and the Historical Society maintains the interior. He said the City should get the feeling of the West End neighborhood and also have staff work with the Planning Commission, the Historic District Commission and the Historical Society to see what problems may arise and how to correct them. He explained that the staff needs instruction from the Council tonight to get the project going. Mayor pro tem Abrams said the plans were seen earlier by the Mayor and Council at a work session and also noted that a bill has been submitted at the State level. He asked if the West End Neighborhood Plan will have to be modified. Councilman Tyner said the Neighborhood Plan for that area has not yet been started. He asked if it is possible to get word from the community and then instruct the staff after the West End has had a chance to

look at the plans. Mayor pro tem Abrams said as he understands it, the City is not in a position to say yes yet but is in a position to say no. Councilman Duncan suggested going ahead with the proposal.

It was the consensus of the Council to grant permission to the Montgomery Historical Society.

Re: Adoption of Ordinance:
To levy Assessment -
water main in Fleet
Street from Maryland
to Park Avenue. Project
No. 050232

Ordinance No. 31-83

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, the ordinance to levy assessments for water mains in Fleet Street was amended, in form proposed by the City Attorney.

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, Ordinance No. 31-83, the full text of which can be found in Ordinance Book No. 11 of the Mayor and Council levying assessments for water main in Fleet Street from Maryland to Park Avenue, was approved as amended.

Re: Adoption of Ordinance:
To levy assessments
for paving, drainage
& sidewalks in Fleet
Street, from Maryland
Avenue to Jefferson
Street and in Monroe
Street, from Jefferson
Street to Fleet Street
Project No. 060412

Ordinance No. 32-83

On motion of Councilman Tyner, duly seconded and passed by unanimous vote of all present, the ordinance to levy assessments for paving, drainage and sidewalks in Fleet Street and in Monroe Street was amended in form proposed by the City Attorney.

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, Ordinance No. 32-83, the full text of which can be found in Ordinance Book No. 11 of the Mayor and Council levying assessments for paving, drainage and sidewalks in Fleet Street, was adopted, as amended, by the Mayor and Council.

Councilman Tyner asked that the Mayor and Council be brought up to date on the Mayor and Council's policy for levying assessments. Mr. Blick said the last item discussed was the City's use of an appraiser to appraise the subject property. Councilman Tyner also asked that curb and gutter areas be discussed because the Mayor and Council never really got around to it. Mr. Blick said a memo would be brought forward.

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Re: Adoption of Ordinance:
To grant Street
Closing & Abandonment
SCA-44-83.

Ordinance No. 33-83

On motion of Councilman Tyner, duly seconded and passed by unanimous vote of all present, Ordinance No. 33-83, the full text of which can be found in Ordinance Book No. 11 of the Mayor and Council, granting Street Closing and Abandonment Application, SCA-44-83, was adopted by the Mayor and Council.

Re: Adoption of Ordinance:
To grant Street
Closing & Abandonment
SCA-45-83

Ordinance No. 34-83

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, Ordinance No. 34-83, the full text of which can be found in Ordinance Book No. 11 of the Mayor and Council, granting Street Closing and Abandonment Application, SCA-45-83, was adopted by the Mayor and Council.

Re: Adoption of Resolution:
To implement recommenda-
tions of the Town Center
Parking Committee

Resolution No. 22-83

Councilman Duncan felt the resolution sums up nicely the points made by the Town Center Parking Committee. Councilwoman Hovsepien noted that the incentives mentioned in the resolution must relate to parking. Mayor pro tem Abrams said that this would be done on a case-by-case basis. Councilman Tyner asked if there had been any inquiries from the Croyden Park Neighborhood concerning the permit parking districts. Mr. Blick said not officially.

Mayor pro tem Abrams said he would like to see something on the preferential parking added to Item No. 2. Councilman Duncan moved, duly seconded to amend the resolution to add, "...preferred parking for high occupancy vehicles,..." to Item No. 2.

On motion of Councilwoman Hovsepien, duly seconded and passed by unanimous vote of all present, Resolution No. 22-83, the full text of which can be found in Resolution Book No. 7 of the Mayor and Council, accepting the Report of the Town Center Parking Committee and implementing the recommendations of the Committee, was adopted as amended by the Mayor and Council.

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Re: Adoption of Resolution
To postpone decision
on Street Closing
Abandonment Application,
SCA-42-83, Ritchie Parkway

Resolution No. 23-83

The City Attorney explained that this is just a technical requirement that is required by the City's Road Code Abandonment Ordinance to extend the time for a decision on the application. Councilman Tyner asked if this will allow the Hungerford/Stoneridge area a chance to comment and asked about the status of the use permit. Mr. Blick said the neighborhood will be allowed to comment. Mayor pro tem Abrams explained that it was not the use permit that is in question, but the extension of time. Councilman Tyner said he would like to see that the applicant is held harmless of additional fees. Mr. Glasgow explained that the matter of fees would come before the Mayor and Council.

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, Resolution No. 23-83, the full text of which can be found in Resolution Book No. 7 of the Mayor and Council, postponing a decision on Street Closing and Abandonment Application, SCA-43-83, was adopted by the Mayor and Council.

Re: Adoption of Resolution
To support adoption of
a statewide beverage
container law in
Maryland

Resolution No. 24-83

Councilman Tyner said this is an admirable resolution and pointed out that the Mayor and Council have looked at beverage container laws before. He has talked with small businessmen in Allegheny County who have come out against this law. He explained that Maryland is so narrow, people can cross the state line to purchase beverages. He feels that the economic point has not been looked at closely and feels it can only work on a statewide or national level. Councilman Duncan thanked Mr. Gregory for his comments earlier this evening. He feels it should be regional as in New England but feels once it is smaller than state level it would not work. He explained how the state of Massachusetts adopted, this year, a beverage container law and told of the problems it experienced in the beginning, but it is working. Mayor pro tem Abrams said he is not sure what happens to the deposit when a bottle is not returned. He suggested that the dumping fees be increased and let the consumer decide if he wants to do recycling on a voluntary basis. He has concerns for the consumer as well as for the small businessman. He opposes the concept in principal and also in passing the buck. The City should pass it themselves. Councilman Tyner

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agrees with a number of Mayor pro tem Abrams' points. He believes the County Council has a law on the books but the implementation date keeps getting pushed back. Councilwoman Hovsepien said she supports the resolution for reasons stated earlier and encourages people to participate. It is an educational experience and everyone should know about it, especially how much it costs.

On motion of Councilman Duncan, duly seconded and passed, Resolution No. 24-83, which can be found in Resolution Book No. 7 of the Mayor and Council, supporting the adoption of a statewide beverage container law in Maryland, was adopted by the Mayor and Council, with Mayor pro tem Abrams voting nay and Councilmembers Duncan, Hovsepien, and Tyner voting aye.

Re: Decisions and Instructions
to staff: Annexation
Petition, X-86-83,
Cromwell-Betts

On motion of Councilwoman Hovsepien, duly seconded and passed by unanimous vote of all present, the staff was instructed to prepare the necessary legal documentation to grant Annexation Petition, X-86-83, Cromwell-Betts property.

Re: Decisions and Instructions
to staff: SL-1-83,
Burgundy Park Associates

Councilman Tyner said he recommends denial of application. He sees no reason for changing any of this. Councilman Tyner moved to instruct staff to prepare the necessary legal documentation to deny the application. Councilwoman Hovsepien said she cannot agree with that motion. The only specific use that the Planning Commission recommended for denial was the pool and billiards use, all the other uses could be useful. Mr. Davis, the Planning Director, explained that this application is filed only for the Burgundy Park area. Councilman Tyner said he understands that and questioned if this would be a precedent setting situation. Mr. Glasgow said no, there are specific standards in the ordinance so that it cannot be precedent setting. He explained how the criteria for approving the application must be looked at individually for each property and he sees no problem in the future. Councilman Tyner withdrew his motion. Councilman Duncan added that conditions were set up and the applicant met them all for each use except for pool and billiards and the liquor recommendation is allright. Councilwoman Hovsepien said she more or less agrees, though the off-sale of liquor could pose a problem. Councilman Tyner asked for specific differences between the chart that was prepared by the Planning staff and Mr. Chen's letter. Mr. Davis explained the difference is in the control of the sale of off-sale liquor and if this was waived in the application it would only be applicable to this area. Mr. Glasgow reviewed the history of liquor control in the

City and explained how it fits in with the City's zoning regulations. Mayor pro tem Abrams asked if there are any problems in this location with the sale of liquor. Chief Stout said there is no problem at the Harlequin and there is no congregation or gathering of groups as in other shopping centers. Mayor pro tem Abrams said he does not want to go with pool and billiards but agrees with everything else. Councilman Tyner asked if there was anything in Mr. Chen's letter that should be addressed. Mr. Davis pointed out that in the letter under Bank and trust company, Mr. Chen objects to having this use required to be a special exception. Mr. Davis said he would like to see the plans first to ensure that it is safe and added that the Planning Commission's recommendation did not address this question. Councilman Tyner asked if the bank would be a special exception. Mr. Davis explained that the Mayor and Council would have to make a special exception to not allow this. If the applicant wants a bank, it needs to be included on the use permit.

Councilman Tyner moved to instruct the staff to prepare the necessary legal documentation to approve the application subject to the Planning Commission's recommendation except for item 6a which states that there be no off-sale of alcohol and also that items 2a. and 2b. from the Planning staff's memo of September 21 also be included. Councilwoman Hovsepian seconded the motion. Mayor pro tem Abrams said this cannot be accomplished. Mr. Davis said he believes 2a can be applied, but on 2b it depends on the use mix and site. He must see the site plan. Councilman Tyner added that staff is to be sure there is adequate parking. Mr. Glasgow said it is very clear that all parts of the ordinance must be adhered to. Mr. Glasgow said parking will have to be expanded and there will have to be some adjustments. Councilman Tyner said he expects an amended use permit to be filed with floor area and check to see if the parking requirements have been met. Mayor pro tem Abrams said 2b is not extraordinary and is really not needed. Mr. Glasgow said he feels it is for clarity. Mayor pro tem Abrams said he would like to see in the ordinance that the use permit already issued is not valid. Councilman Tyner said no, that is not part of his motion. He said that is not the purview of the Mayor and Council but of the Director of Planning. He said would like to strike 2a and 2b from his motion and deal with it as the intent of the Mayor and Council. Councilwoman Hovsepian seconded the amended motion. The motion passed unanimously. Mayor pro tem Abrams noted that Mayor Freeland had indicated that this is an approach with which he would concur.

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Re: Award of Contract:
 Bid No. 16-84, Flint
 Ledge Estates, Water
 and Sewer

Bids were opened on Friday, September 2, 1983, at 3:30 p.m. in the Council Chamber for the installation of water and sewer mains and house services for Flint Ledge Estates subdivision, formerly the Carter property. This project will serve 32 townhouses and 32 single family homes and was authorized by the Mayor and Council as a special assessment project on January 31, 1983.

Seven bids were picked up by contractors and two were received as follows:

Calcon Company, Inc., Gaithersburg, Maryland	\$190,680.00
Rapp Contracting, Inc., Beltsville, Maryland	\$228,047.50
Engineer's Estimate	\$161,800.00

Although the prices proposed by the low bidder, Calcon Company, Inc., are higher than the Engineer's Estimate, the resultant special assessment charges to be levied against the benefitting properties will not exceed an acceptable amount and will be comparable to similar recent assessments. The higher prices are due to the present market conditions. This project was well advertised both in the newspaper and in direct mailing and yet only two bids were received.

Staff's conclusion is that a rebid would probably not result in lower prices. Local sewer and water construction is at its highest peak in recent years, and the result is reflected by the low number of bidders. This lack of competition results in the higher prices recently received.

This contractor is experienced in this type of work and has previously performed similar construction in a satisfactory manner for both the City of Rockville and the Washington Suburban Sanitary Commission.

Staff recommends the award of Bid No. 16-84 to the low bidder, Calcon Company, Inc., in the amount of their bid of \$190,680.00.

On motion of Councilman Tyner, duly seconded and passed by unanimous vote of all present, Bid No. 16-84, for water and sewer in Flint Ledge Estates, was awarded to the low bidder, Calcon Company, Inc., in the amount of \$190,680.00.

Re: Award of Contract:
 Bid No. 17-84,
 Construction of
 Stonestreet between
 Baltimore Road and
 Veirs Mill Ramp

Bids were opened on Tuesday, September 13, 1983, at 3:00 p.m. in the Council Chamber for the widening and reconstruction of South Stonestreet Avenue from Baltimore Road to Reading Avenue. This section of Stonestreet Avenue will connect the

ramps from Veirs Mill Road to the improved section adjacent to the METRO parking lot and was authorized by the Mayor and Council, following a special assessment public hearing on December 20, 1982. The project is scheduled to be completed this fall.

Thirteen bids were picked up by contractors and four were received as follows:

Nazario Construction Co., Inc., Beltsville, Maryland	\$ 79,155.00
Concrete General, Inc., Gaithersburg, Maryland	81,857.50
Santa Fe Construction Co., Washington, D.C.	99,490.00
Rapp Contracting, Inc., Beltsville, Maryland	124,905.00
Engineer's Estimate (at special assessment public hearing)	\$ 91,000.00

This contractor is experienced in this type of work and has satisfactorily performed work for the City and Montgomery County Government, and is qualified to undertake this project. In addition, they have performed utility work for the City in a satisfactory manner. The price is favorable.

Staff recommends the award of Bid No. 17-84 to the low bidder, Nazario Construction Company, Inc., in the amount of their bid of \$79,155.00.

Councilman Tyner asked how much of this bid will go towards landscaping or is the bid strictly for the street. Mr. Goodin said none of it will go towards landscaping. Councilman Tyner asked that it be looked into. Mr. Butchart explained that there is no room for landscaping. It will only be done at Baltimore Road and Stonestreet. There is no landscaping included in this project. Mayor pro tem Abrams asked if there is any room available on private land that is adjacent. Mr. Butchart said there may be some on a portion of abandoned land but there is no room for taking. The only latitude is the City's property. Councilman Tyner said he believes the City once asked that the State Highway look into landscaping and asked that the Director of Public Works check up on this.

On motion of Councilman Tyner, duly seconded and passed by unanimous vote of all present, Bid No. 17-84, South Stonestreet Avenue widening project, was awarded to the low bidder, Nazario Construction Company, Inc., in the amount of their bid of \$79,155.00.

Re: Award of Contract:
Bid No. 19-84, New
Mark Commons, Water
and Sewer

Bids were opened on Wednesday, September 14, 1983, in the Board and Commission Room, covering the construction of water and sewer mains and house services to serve thirteen (13) townhouses in New Mark Commons subdivision. This system was authorized by the Mayor and Council as a special assessment project on July 12, 1982.

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Nine contract documents were picked up by contractors and four bids were received as follows:

Brady Contracting Company, Inc., Camp Hill, Pennsylvania	\$63,632.05
Damascus Contractors, Inc., Damascus, Maryland	63,772.50
Calcon Company, Inc., Gaithersburg, Maryland	72,660.00
Rapp Contracting, Inc., Beltsville, Maryland	94,430.00
Engineer's Estimate	\$54,000.00

Acceptance of the above low bid will put the City in a position of levying excessively high assessments on the 13 lots of approximately \$13,550.00 per unit or \$675.00 per annum over a 20 year period.

Part of the reason for these high costs is today's price trends, which have inflated considerably in the past four months and is to the current abundance of work available to the contractors. Another major cost factor is that this 13-unit subdivision will be served by water and sewer mainline extensions and connections which are adequate for and would normally serve greater numbers, thereby reducing the individual cost by spreading it over a higher number of units.

Options that are available to the Mayor and Council are as follows:

- 1) Reject the bids and direct the developer to install the water and sewer systems under the City's bonding and permitting procedures. Under this option, there would be no special assessments levied against the homes. The developer would very likely object to this option as it would require that he quickly obtain a large sum of money not previously anticipated.
- 2) Award the contract subject to a developer contribution of \$10,000 to lower the amount of the assessment to an acceptable level. There is precedent for this requirement. A recent example is the Orchard Ridge subdivision wherein the developer of that project made a contribution of \$34,000 for a 35-unit housing project. That contribution resulted in reducing the assessment from approximately \$13,500 to \$11,500. Other developers have made similar contributions from time to time since the City's involvement in special assessment sewer and water projects for new subdivisions. In fact, the standard special assessment waiver form submitted by the developer and approved by the Mayor and Council contains the following provision:

"We further agree that payment for unusual and inequitable costs which cannot reasonably be included in the assessment, brought about by premature development or any other reasons, will be deposited, upon request, with the City of Rockville in an amount as will be determined by the Department of Public Works."

- 3) Reject the bids and direct the staff to rebid this project at a more favorable time, possibly in December or January. This, of course, would create a delay in the development of the subdivision.

Should the Mayor and Council favor Option 2, another factor to be considered is the possibility that, even by proceeding with the award, an unusual delay may prevent the developer from meeting his schedule. Therefore, based on recent practice, a condition of Mayor and Council approval of the contribution option should be that the

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developer provide to the City a hold-harmless agreement indemnifying the City against a law suit in the event his anticipated progress is impeded by the City contract.

The options described have been discussed with the developer. He feels he must proceed quickly to avoid further potential development cost escalation. Accordingly, he has indicated his willingness to proceed on the basis of option number 2, namely, he will provide the \$10,000 contribution and the hold-harmless agreement.

The low bidder, Brady Construction Company, Inc., has not previously worked for the City. An inquiry to the Washington Suburban Sanitary Commission Construction Division indicates that this company has satisfactorily performed work of the same nature for that agency.

The staff recommends that the award be made to the low bidder, Brady Construction Company, Inc., in the amount of their low bid of \$63,632.05, subject to the developer providing a \$10,000.00 contribution and a hold-harmless agreement within one week of the Mayor and Council action. Should the developer not provide such a contribution within this time limit, all bids will be rejected and the developer will be presented with the options of requesting a rebid at a more favorable time or installing the systems under the City's permitting/bonding procedure.

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, the Council approved the staff's recommendation to award the bid to the low bidder, Brady Construction Company, Inc., subject to the developer providing a \$10,000 contribution and a hold-harmless agreement within one week of the Mayor and Council action.

Re: Approval of
Reimbursement to
Gateway Building,
Inc., for relocation
of sanitary sewer
line

On March 23, 1981, a Contract for Sale of Land for Private Redevelopment was executed by and between the Mayor and Council of Rockville and Gateway Building Associates (Lowell Baier). That document contains the terms of sale of disposition Parcel 4-A in the Town Center.

A sewer line serving an adjacent building currently crosses the subject property. Consequently, Section 9 (a) of the disposition agreement states, "The Agency will relocate the sewer line which currently runs across the property...". The intent had been to pay for the utility relocation out of disposition proceeds from the land sale.

Lowell Baier had indicated that he wishes to begin construction of his building on October 5, 1983, immediately after settlement on the property. His timetable does

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not permit the City to utilize its normal procedures for designing and bidding the necessary work.

Mr. Baier's contractor, Glen Construction, consequently obtained 3 bids on the proposed work, the lowest of which was submitted by Deneau Construction, Inc., in the amount of \$22,736. Combined with a 10% administrative cost to Glen Construction and a design and stake out fee of \$1,363.20 the total cost to relocate the sewer line by Glen Construction would be \$26,373.20.

Mr. Baier has requested permission to proceed with the relocation of the line. The Department of Public Works has prepared an engineer's estimate for the proposed sewer relocation in the amount of \$30,150. That estimate exceeds Mr. Baier's proposal by \$3,776.80.

The relocation of the sewer line is a contractual obligation of the City. Since the bid by Deneau Construction plus the requisite administrative and engineering costs are less than the City's engineering estimate, it is recommended that Mr. Baier be granted permission to proceed with the relocation of the sewer line in a manner which meets all prevailing codes and standards. His costs for the relocation of the line, in an amount not to exceed \$26,373.20 would then be reimbursed at settlement.

In accordance with Section 2-305 (a) of Chapter 5 of the Laws of Rockville, it has been determined that the proposed City improvements consist of a portion of a single structure or complex of related structures containing both City and private improvements. Therefore, staff concurs that the methodology for relocating the sewer line across Parcel 4-A is in the best interest of the City of Rockville and that reimbursement may be made without competition for construction of City improvements.

On motion of Councilman Tyner, duly seconded and passed by unanimous vote of all present, authorization was given for reimbursement to Gateway Building, Inc., for relocation of sanitary sewer line across Parcel 4-A.

Re: Authorization to City
Manager to sign
letter of agreement
with Montgomery County
re disposition of
proceeds from sale of
Maryvale school site

This transaction conveys the deed to the City as in the original conveyance documents but corrects the legal description. The agreement covers:

1. Payment of the approximately \$78,000 indebtedness owed for the Maryvale School.
2. Recovery of site preparation expenditures of approximately \$38,000 encountered by the City in the razing the former Maryvale School and preparing the ground.

3. Recovery of the \$15,000 negotiated settlement costs encountered.

It is mutually understood that neither the City nor the County will profit otherwise in the disposition of this land and that any other savings beyond the recovery of the actual costs encountered and the school debt will be used to reduce the cost of housing for those in need.

The remaining area will be incorporated as park land at the Maryvale Park.

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, the City Manager was given authorization to sign a letter of agreement with Montgomery County re disposition of proceeds from sale of Maryvale school site.

(At this time the Council took a 5 minute recess.)

Re: Work Session on
proposed Landlord-
Tenant Ordinance

The Mayor and Council conducted a work session on Landlord-Tenant issues that were addressed at the public hearing on July 11, 1983.

Suggested by: Montgomery County Board of Realtors

1. Single family rental should be exempted from the ordinance. A voluntary mediation service provided by the Board of Realtors should be used in its place.

The Council agreed with the staff recommendation.

2. Define multiple family dwelling (Section 1-103) as four (4) dwelling units for rent on one parcel.

The Council agreed with the staff recommendation.

3. Change in display of license requirement (Section 3-106).

The Council agreed with the staff recommendation.

4. Allow a rental license to be transferred to a new owner (Section 3-107).

The Council agreed with the staff recommendation that the City should keep track of when a home changes hands.

5. Allow ten (10) working days in which to eliminate violations (Section 3-108).

The Council agreed with the staff recommendation.

6. Require an operator on the premises in complexes containing nine (9) or more units (Section 3-202).

Councilman Duncan asked how these numbers were arrived at. Mr. Radauskas explained that there are only a few apartment units in the City with less than 100 units and there are usually maintenance people available 24 hours a day. Mayor pro tem Abrams added that when there are only 1 or 2 units the landlord is on call. Councilman Tyner mentioned that the zoning ordinance has regulations for 100 units and up. Councilman Duncan suggested that the numbers be changed from 5 to 99. Mr. Radauskas said 8 to 99 would be good. Councilman Tyner said all units with 5 or more should have someone on hand and an operator. Councilman Duncan suggested that the Council go with 8. Councilwoman Hovsepian asked if there were any apartments in the City with less than 8 units. Mr. Radauskas said that is the lowest number. The Council agreed to change the number to 8 or more units.

7. Sample Lease.

The Council agreed with the staff recommendation.

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8. Delete one year lease term offer in case of single family rentals.

The Council agreed with the staff recommendation.

9. Delete references to City Code (Section 4-101).

The Council agreed with the staff recommendation.

10. Allow tenants right of review of documents governing use and occupancy of a condominium or cooperative dwelling (Section 4-302).

The Council agreed with the staff recommendation.

Suggestions by Jeryl O. Gegan

1. Allow landlord or operator to be a nonresident owning or operating property in the City.

The Council agreed with the staff recommendation.

2. Allow removal of a Commissioner for cause.

Councilman Duncan agreed with the staff recommendation and asked what would be reason for cause. Mrs. Block explained.

3. Allow information to be requested individually or separately by the Mayor and Council.

Councilman Duncan said he did not understand this. Mr. Gegan explained it is a simple language change to make it less formal. Councilman Duncan said he agrees with the staff recommendation that makes it formal.

4. Allow an Appeal to the full commission (Section 2-207 (d)).

Councilman Duncan suggested that when the work load gets too heavy, the commission chairman could appoint a 3 member subcommittee. The Council agreed to this.

5. Allow personal staff presentation in the event of an appeal (section 3-109 (d)).

Mrs. Block suggested that the Council address this item at a later time when rules of procedures for the commission are prepared.

6. Phone service in hotels 24 hours a day (Section 3-201)

The Council agreed with the staff recommendation.

7. Raise the amount of damages to \$2,000 (Section 5-204(c)(2)).

The Council agreed with the staff recommendation.

Suggested by: Richard Ferrara, Executive Director of Montgomery County Office of Landlord-Tenant Affairs.

1. Prohibition on requiring written leases.

The Council asked the staff to look into this further.

2. In cases of involuntary termination of leases (Section 4-102), Tenants should be required to pay no more than one month extra rent.

The Council agreed with the staff recommendation.

3. Limit rent increases for holdover tenants to one per year. Councilman Duncan said he would like to see in the ordinance, language which allows tenants and landlords to budget for the coming year. This was discussed at length and Mrs. Block recommended against this at this time. Councilman Tyner said he does not like it in here but it should be addressed very quickly. Mayor pro tem Abrams said he is not inclined with the once per year but would go along with a 90 day notice before rent goes up. Mrs. Block said she would check with the State law on this.

4. Provide a clause requiring a deduction in rent when a reduction in service takes place.

Mrs. Block said she is looking into language to take care of this. The Council agreed with the staff recommendation.

5. Definition of single family dwelling unit (Section 1-101 (r)).

The Council agreed with the staff recommendation.

The Council then examined the costs of enforcing the current Rental Licensing Ordinance, the costs associated with the proposed Tenant-Landlord Ordinance, and examined related housing code enforcement issues.

As of July 1983, there were 2,677 apartment units and 1,317 single family rental (SFR) units covered under the City's rental licensing program. In addition, there are 500 units that are licenses and inspected, such as Bethany House and Town Center Apartments, that do not pay fees. The current licensing fees are \$8.50 per unit per year for apartments and \$35.00 every two years for single family rental units.

In order for the FY 1983 program to be self-supporting, it would have been necessary to set the fees at \$11.19 for apartments and \$50 every two years for single family rentals.

The Director of CDHA has estimated that it would cost \$26,000 per year to enforce the proposed Tenant-Landlord Ordinance. This assumes a half-time clerical position and one-third of a professional position and some non-personnel costs. Fiscal year 1984 costs would be closer to \$17,000, assuming an October, 1983 implementation. To cover the full annual cost of enforcing the Landlord/Tenant Ordinance, the fees charged for apartments and single family dwellings would have to be raised \$5.68 per unit. If only the estimated FY 1984 costs were to be covered, the fee per unit would have to be raised only \$3.71, although a fee increase would be necessary for next fiscal year, if the intention was to cover 100% of the enforcement costs.

The following chart compares the City's major fee schedule options:

	Apartments	(Annual) (Increase)	Single Family	(Annual) (Increase)
1) Current Rental License Fee:	\$8.50/yr		\$35/2 years	
2) Cover 100% of License Cost:	\$11.19/yr	(\$2.69)	\$50/2 years	(\$7.50)
3) Current Fee & 100% of "OLTA":	\$14.18/yr	(\$5.68)	\$46/2 years	(\$5.68)
4) 100% of License Costs: +100% of "OLTA"	\$16.87/yr	(\$8.37)	\$62/2 years	(\$13.50)

(SFR 2 year fee has been rounded)

Since all of the benefit of the Landlord/Tenant Ordinance can be associated with the user, staff recommends that the City appropriate \$17,000 at mid-year for expenses

and set the fee at \$5.68 to cover the cost. Staff believes this is a good time to readjust the City's licensing fees. They have not been increased for several years and to cover 100% of the City's licensing cost would only be a 20 cents/month increase per apartment tenant, and a 60 cents/month increase for the SFR tenant.

In summary, staff recommends that the Mayor and Council go with Option 4 in the above chart, but round off the fees for easier handling. Rounding up slightly will take into consideration FY 1984 personnel cost increases also as the chart's estimates were based on FY 1983 expenditures. Staff suggests the fees be set at \$17/year for apartments and \$65 every 2 years for single family rentals. While the SFR fee is a significant increase, the total new SFR fee works out to \$3 a month. The \$17/year apartment fee is still \$2 a year less than Montgomery County's fee.

Councilman Duncan recommended that the Mayor and Council approve Option 4 as suggested by the staff. Councilwoman Hovsepien questioned the fee covering License and Inspection services. Mr. Blick explained that in order to cover expenses used by citizens, the city uses pay as you go. Councilwoman Hovsepien said she would like to see the fees phased in. Mayor pro tem Abrams said he agrees with the costs. Councilwoman Hovsepien suggested that the City go with Option No. 3 and then go to Option #4 after it is reviewed at budget time. Mayor pro tem Abrams said he would still prefer Option No. 4 (pay as you go). He does not see much difference in doing it now or later. Councilman Duncan said perhaps it would be best to do as Mayor pro tem Abrams suggests so the price is the same and not raised or lowered each year. Mr. Radauskas explained that the fees have not been raised in the last few years. The City was planning to raise them this year but held off until this was brought up. From the perspective of apartment owners, it is easier to do it all at once. Councilwoman Hovsepien said she would like to see it done after it is proven and cannot go with Option 4.

It was the consensus of the Council to go with Option No. 3.

Councilman Duncan thanked the staff for all the work done and Mayor pro tem Abrams thanked Councilman Duncan for all his time and effort.

Re: Correspondence

The Mayor and Council noted the following items of correspondence:

1. Thank you letter from Councilwoman Esther Gelman
2. Nancy Koehl, re daycare laws

The Council questioned the correlation between the City's regulation of not requiring registration for up to four children in a daycare center and the County's requirement of up to 6. The staff replied that the City is regulated by the Zoning Ordinance and the County goes by Social Services. Staff will get back to the Council with further information.

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3. Ruby Witt, re candidate for RSI Board

Re: Information Items

1. Information on symposium on community vitality
2. Letter to Editor re Woodley birds
3. Thank you for 4 way Stop sign at Congressional and Rollins
4. Traffic & Transportation Commission information
5. Memo from Director of Planning re Sign Ordinance
6. Memo from City Manager re: ICMA Annual Conference
7. Memo from Director of Planning re: MXPD Zone
8. Item omitted
9. Memo re funding of Pilot Program with PEPCO
Councilwoman Hovsepian said she thinks it is great the City is able to use CDBG money for its portion and that PEPCO will also be able to help.
10. Memo re tree service at 2272 Dunster Lane
11. Animal Control Monthly/Quarterly reports for August 1983
12. Project report from CDHA

Re: Approval of Minutes

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, the Minutes of Meeting No. 27-83, August 1, 1983, were approved as written.

On motion of Councilwoman Hovsepian, duly seconded and passed by unanimous vote of all present, the Minutes of Meeting No. 28-83, August 22, 1983, were approved as written.

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, the Minutes of Meeting No. 29-83, August 23, 1983, were approved as written.

On motion of Councilwoman Hovsepian, duly seconded and passed by unanimous vote of all present, the Minutes of Meeting No. 30-83, August 29, 1983, were approved as written.

Re: Executive Session

There being no further business to come before the Council in general session, the meeting was closed for executive session to discuss litigation.

Re: Adjournment

There being no further business to come before the Council in executive session, the meeting was adjourned at 11:45 p.m. to convene again in general session in the Council Chamber on Monday, October 10, 1983, at 8:00 p.m. or at the call of the Mayor.